

### REMARKS

This amendment is submitted in response to the Office Action mailed May 30, 2004. In the Office Action, Claim 7 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 7 has been amended as noted above to clarify the reference to "the equalizer." The application of an equalizer as recited in Claim 6 is further defined in Claim 7. All references to the equalizer in Claims 6 and 7 refer to the same equalizer.

The Office Action further rejected Claims 1-3, 5-6, 8-9, 11 and 13 as being unpatentable over a 1998 IEEE article authored by Gugler et al. in combination with one or more other references, including Koslar, Huemer et al., and Matsui. Applicants respectfully traverse this rejection on the basis of applicants' invention occurring prior to the disclosure in the Gugler et al. article (hereinafter "Gugler article").

Attached herewith under 37 C.F.R. § 1.131 is the declaration of inventor John A. Pinkney providing evidence of invention of the claimed subject matter prior to the earliest effective date of the Gugler article. The Gugler article was published, at the earliest, on October 5, 1998, in connection with the 1998 IEEE International Ultrasonics Symposium held in Sendai, Japan, on October 5-8, 1998. The Gugler article was published less than one year before the filing of the present application.

As further evidence of applicants' conception and reduction to practice of an embodiment of the subject matter claimed in the present application prior to October 1998, attached to the declaration of John A. Pinkney is a copy of an article titled "High-Speed DQPSK Chirp Spread Spectrum System for Indoor Wireless Applications," published in *Electronic Letters*, vol. 34, no. 20, pp. 1910-11, on October 1, 1998 (hereinafter the "*Electronics Letters* article"). Authorship of the *Electronics Letters* article is attributed to both co-inventors, John A. Pinkney and Spence T. Nichols with two other co-authors. Notwithstanding the authorship set forth in

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the *Electronics Letters* article, applicants confirm that the subject matter claimed in the present application that is co-extensive with the *Electronics Letters* article was conceived solely by the inventors, Pinkney and Nichols, and not by the other named co-authors of the *Electronics Letters* article. The *Electronics Letters* article evidences the inventors' complete conception and reduction to practice of the claimed invention prior to the earliest effective date of the Gugler reference.

The declaration of inventor John A. Pinkney further attests to the inventors' due diligence that followed their conception of the invention prior to October, 1998, to reduction to practice of the invention evidenced by the *Electronic Letters* article and also the filing of the present application on September 27, 1999. Applicants filed a corresponding patent application the same day in Canada under Application No. 2,283,598.

In view of the foregoing, the rejection of the claims based on the Gugler article should be withdrawn. The remaining references to Koslar, Huemer et al., and Matsui, whether considered separately or in combination, do not anticipate or render obvious the claimed invention.

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CONCLUSION

Applicants thank the Examiner for the indication of allowable subject matter in Claim 7. Claim 7 has been amended to overcome the rejection under 35 U.S.C. § 112. With the removal of the rejection based on the Gugler et al. article, Claims 1-3, 5-9, 11 and 13 are all believed to be in patentable condition. Allowance of the application at an early date is respectfully requested. Should any issues remain that can be resolved by telephone, the Examiner is invited to contact applicants' attorney at the telephone number indicated below.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date:

June 2, 2004



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